

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**ORIGINAL
FILED**

MAY 24 2017

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA,

Plaintiff,

v.

CALIFORNIA BERRY CULTIVARS,
LLC, et al.,

Defendants.

Case No. 16-cv-02477-VC

VERDICT FORM

CALIFORNIA BERRY CULTIVARS,
LLC,

Cross-Complainant,

v.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA,

Cross-Defendant.

Your answers must be unanimous.

We, the jury in this case, find as follows:

1. Did UC prove by a preponderance of the evidence that CBC, Shaw, and/or Larson engaged in conversion by interfering with UC's property interests in the (1) Core Strawberry Germplasm; (2) other unreleased UC varieties; and/or (3) books and records relating to the Strawberry Breeding Program? Please enter an x indicating "yes" or "no" for each party, and if the answer is "yes," identify the property subject to conversion.

	Yes	No	If "Yes," identify the property
CBC	X		1, 2, 3
Douglas Shaw	X		1, 2, 3
Kirk Larson	X		1, 2, 3

2. Did UC prove by a preponderance of the evidence that either Shaw or Larson or both breached the duty of loyalty owed by employees to their employers? Please enter an x indicating "yes" or "no" for each party.

	Yes	No
Douglas Shaw	X	
Kirk Larson	X	

3. Did UC prove by a preponderance of the evidence that Shaw or Larson breached the fiduciary duty owed to UC by committing acts contrary to the interests of UC? Please enter an x indicating "yes" or "no" for each party.

	Yes	No
Douglas Shaw	X	
Kirk Larson	X	

4. Did UC prove by a preponderance of the evidence that CBC intentionally interfered with the Patent Agreement(s) between UC and Shaw and/or Larson?

X Yes ____ No

5. Did UC prove by a preponderance of the evidence that CBC, Shaw, and/or Larson intentionally interfered with a contract between UC and Lassen Canyon or Eurosemillas?

	Lassen Canyon		Eurosemillas	
	Yes	No	Yes	No
CBC		X		X
Douglas Shaw		X		X
Kirk Larson		X		X

6. Did UC prove by a preponderance of the evidence that CBC, Shaw, and/or Larson intentionally interfered with prospective economic relationships with Lassen Canyon or Eurosemillas?

	Lassen Canyon		Eurosemillas	
	Yes	No	Yes	No
CBC		X		X
Douglas Shaw		X		X
Kirk Larson		X		X

7A. Did UC prove by a preponderance of the evidence that CBC, Shaw, and/or Larson directly infringed or induced Eurosemillas, or its affiliate International Semillas, Javier Cano, or David Garcia Sinova to infringe UC's plant patents, through importation and/or use in the U.S. of seeds? Please enter "yes" or "no" for each party for each of the patents listed below.

Patent	Infringed through Importation and/or Use in U.S.		
	CBC	Shaw	Larson
"Albion" - U.S. Plant Patent No. 16,228	Yes	Yes	Yes
"Palomar" - U.S. Plant Patent No. 19,472	Yes	Yes	Yes
"Monterey" - U.S. Plant Patent No. 19,767	Yes	Yes	Yes
"Portola" - U.S. Plant Patent No. 20,552	Yes	Yes	Yes
"San Andreas" - U.S. Plant Patent No. 20,975	Yes	Yes	Yes
"Benicia" - U.S. Plant Patent No. 22,542	Yes	Yes	Yes
"Mojave" - U.S. Plant Patent No. 22,589	Yes	Yes	Yes
"Merced" - U.S. Plant Patent No. 25,436	Yes	Yes	Yes
"Petaluma" - U.S. Plant Patent No. 26,683	Yes	Yes	Yes
"Grenada" - U.S. Plant Patent No. 26,708	Yes	Yes	Yes
"Fronteras" - U.S. Plant Patent No. 26,709	Yes	Yes	Yes

If you answered "Yes" to any part of Question 7A above, proceed to Question 7B regarding willfulness. If you answered "No" to all parts of Question 7A above, skip to Question 8.

7B. Did UC prove by a preponderance of the evidence that CBC, Shaw, and/or Larson infringed any UC patents willfully, by importing or using in the U.S. seeds of UC-patented plants? Please enter an x indicating "yes" or "no" for each party.

	Yes	No
CBC	X	
Douglas Shaw	X	
Kirk Larson	X	

8. Did UC prove by a preponderance of the evidence that CBC, Shaw, and/or Larson infringed any UC patents willfully, by using UC-patented plants for benchmarking? Please enter an x indicating "yes" or "no" for each party.

	Yes	No
CBC		X
Douglas Shaw		X
Kirk Larson		X

9. Did CBC prove by a preponderance of the evidence that UC breached the implied covenant of good faith and fair dealing with respect to UC's determination that the Core Strawberry Germplasm are patentable and UC's request for assignment?

____ Yes X No

Dated: 5/24/17


FOREPERSON